

# **FREDERICK COUNTY PLANNING COMMISSION**

**June 13, 2012**

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**TITLE:** Ashley Acres, Section 5, Lots 11-A & 11-B.

**FILE NUMBER:** S-867, AP 11716 (FRO AP 11718, APFO AP 11717)

**REQUEST:** Major Subdivision Approval

The Applicant is requesting major subdivision approval to resubdivide existing Lot 11 into one (1) new lot and a remainder lot on a 12.368-acre site.

**PROJECT INFORMATION:**

**ADDRESS/LOCATION:** Located on the west side of Kemptown Church Road, 600 feet east of Gladhill Brothers Road.  
**TAX MAP/PARCEL:** Map 98, Parcel 255  
**COMP. PLAN:** Rural Residential  
**ZONING:** Residential (R-1)  
**PLANNING REGION:** Urbana  
**WATER/SEWER:** No Planned Service

**APPLICANT/REPRESENTATIVES:** [as applicable]

**APPLICANT:** Bessie B. Gladhill  
**OWNER:** Bessie B. Gladhill  
**SURVEYOR:** J.F. Brown III & Associates  
**ARCHITECT:** N/A  
**ATTORNEY:** N/A

**STAFF:** Mike Wilkins

**RECOMMENDATION:** Conditional Approval

**ATTACHMENTS:**

EXHIBIT 1- Subdivision Plat  
EXHIBIT 2- Letter of Understanding

## STAFF REPORT

### ISSUE

The Applicant is requesting major subdivision approval to resubdivide existing Lot 11 into one (1) new lot and a remainder lot on a 12.368-acre site.

### BACKGROUND

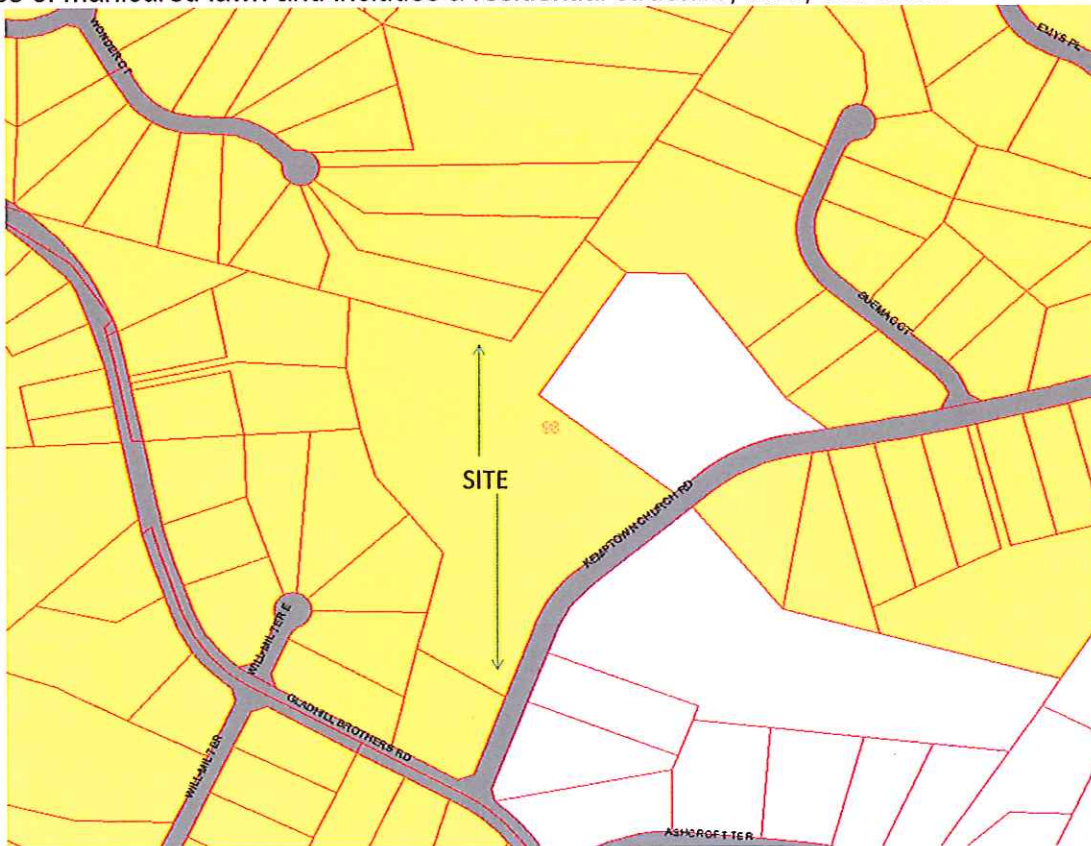
Lot 11 was created as a lot on a plat recorded in 1996 (Platbook 57, Page 192). This lot was recorded as part of a 43 lot subdivision which received Preliminary Plan approval in 1995.

Section 1-16-3 of the Subdivision regulations defines a major subdivision as *"any subdivision that would bring the total number of lots off the original parcel to 6 or more."* Original parcel is defined as *"a lot, tract or parcel of land as it existed by deed or plat description on April 6, 1965."*

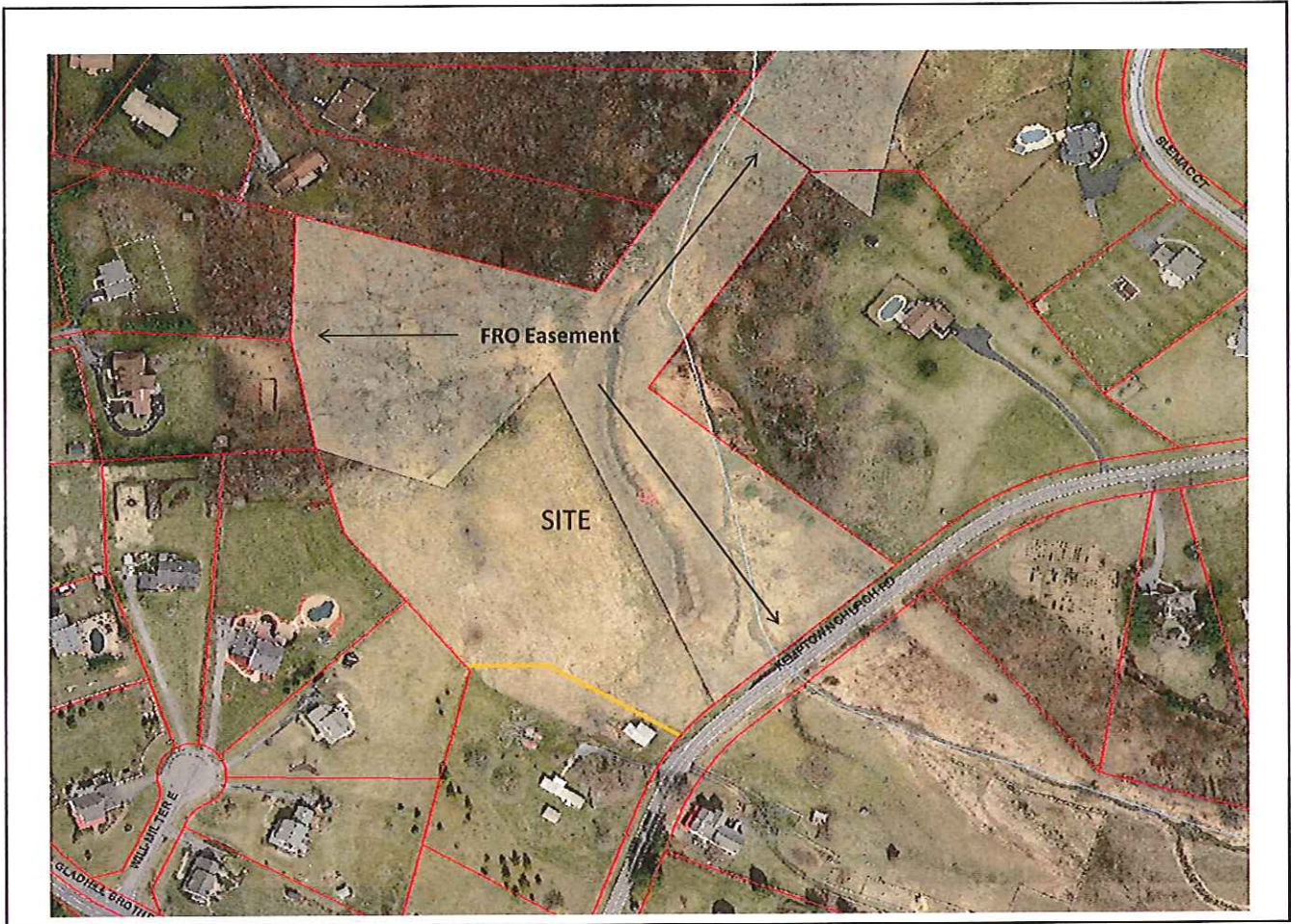
The proposed Lot 11-B will be the 45<sup>th</sup> lot off the original parcel and is therefore considered a major subdivision. Major subdivisions require review and approval by the FcPc per § 1-16-8 (C) of the Subdivision Regulations.

### Existing Site Characteristics

The 12.368 acre site is a even mix of open ground and forested area. Lot 11-A remainder consists of 2.227 acres of manicured lawn and includes a residential structure, barn, and shed.







Lot 11-B contains approximately 6.80 acres of a Forest Conservation easement over environmentally sensitive stream buffer and flooding soils. Approximately 3.34 acres of Lot 11-B consists of open field that is outside of the environmentally sensitive areas. The site is surrounded by previously recorded lots, all of which are occupied with single family structures.

## ANALYSIS

### A. LAND, DIMENSIONAL, AND BULK STANDARDS REQUIREMENTS

- 1. Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

The proposed land use and subdivision design complies with the Comprehensive Plan and meets Zoning Ordinance requirements.

- 2. Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The subdivision is designed to preserve the existing Forest Conservation Easement, floodplain, and

waterbody buffer. The proposed design and use is compatible with the surrounding lots.

3. ***Dimensional Requirements/Bulk Standards §1-19-6.100:*** *The minimum lot size for single family lots in the R-1 zone is 40,000 square feet. The minimum setbacks are 40 feet from the front property line, 30 feet from the rear property line, and 10 feet from the side property lines.*

The proposed lot and remainder lot meets the lot size and setback requirements per §1-19-6.100.

4. ***Floodplain District Regulations (§1-19-9.110) and Waterbody Buffer Requirements (§1-19-9.400):*** *A minimum setback of 25 feet shall be provided from all Floodplain district boundaries. No new development shall be permitted in areas of flooding soils. Waterbody buffer width shall be derived by calculating the gradient of the slope within a 175 foot cross section. The minimum waterbody buffer shall be 100 feet.*

The proposed lot contains a stream system and floodplain soils. The plan illustrates the minimum 25 foot setback/buffer from the floodplain soils. The floodplain buffer exceeds the required stream setback. Most of the floodplain area and the entire stream buffer are within a recorded Forest Conservation Easement. The proposed subdivision meets the requirements of §1-19-9.110 and §1-19-9.400.

#### **Land, Dimensional, and Bulk Standards Requirements Findings/Conclusions**

The proposed subdivision meets all land, dimensional, and bulk standards requirements.

#### **B. ACCESS**

1. ***Public Facilities §1-16-12 (B)(3)(b):*** *For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.*

The proposed lots will access Kemptown Church Road, which is a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.

2. ***Lot Access to Streets §1-16-240: (A)****The Planning Commission shall have the right to approve or disapprove any point of ingress and egress to any lot...****(B)*** *The Planning Commission may require the subdivider to provide ingress and egress to a particular lot or tract through the remainder of the property...*

The proposed Lot 11-B and the remainder lot will access Kemptown Church Road via the existing use-in-common driveway apron.

3. ***Driveway Entrance Spacing Policy:*** *This policy, adopted by the FcPc in 2002 and amended in 2004, provides a system of evaluating driveway locations for public safety, to preserve the rural character of roads located in the rural parts of the County, and allowing tighter spacing in areas of the County designated for denser development.*

This Application is not subject to the entrance spacing criteria because no new driveway entrances are proposed.

#### **Access Findings/Conclusions**

The proposed lot will meet all County access requirements.

#### **C. WATER AND SEWER FACILITIES**

1. **Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of "No Planned Service" and must utilize a private well and septic system. The subdivision may proceed with percolation testing and well drilling once the FcPc has granted approval in accordance with §1-16-9 (B)(4). The well and the septic area must be approved by the Health Department prior to lot recordation.

#### **D. OTHER APPLICABLE REGULATIONS**

**Stormwater Management – Chapter §1-15.2:** This single lot subdivision will address SWM at the time of building permit application.

**Adequate Public Facilities Ordinance (APFO) – Chapter §1-20:** Proposed Lot 11-B is the 44<sup>th</sup> lot recorded from the original parcel since the adoption of the APFO (1991) and is subject to the provision of the APFO

1. **Schools.** The Project will generate 1 elementary school student, 1 middle school student and 1 high school student. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the middle and high school levels. Because the current enrollment in the schools that will serve the new lot is not greater than 120% of capacity, the Developer is eligible and has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. The School Construction Fee shall be paid prior to plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation.

The attached letter of understanding (LOU) signed by the Applicant specifies in detail the mitigation required to achieve this APFO approval.

2. **Public Water/Sewer.** Not applicable. The subdivision will utilize private wells and septic systems.
3. **Roads.** This development would generate one am and one pm weekday peak hour trips and does not meet the requisite 50 peak hour trip threshold required for APFO testing. As a result it can only be required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H). However, there are no transportation improvements with existing escrow accounts impacted by this development.

**Forest Resource Ordinance – Chapter §1-21:** The FRO requirements for this property were met in 1996 when Ashley Acres Section 5 was finalized. The FRO easement shown on Lot 11-B is a portion of the original mitigation for this development.

#### **Summary of Agency Comments**

<b><i>Other Agency or Ordinance Requirements</i></b>	<b><i>Comment</i></b>
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<b>Other Agency or Ordinance Requirements</b>	<b>Comment</b>
<b>Development Review Engineering (DRE):</b>	Hold. Need additional information to determine need for road layback improvements
<b>Development Review Planning:</b>	Hold. Must meet all agency and FcPc comments and conditions.
<b>State Highway Administration (SHA):</b>	N/A
<b>Div. of Utilities and Solid Waste Mngt. (DUSWM):</b>	N/A
<b>Health Dept.</b>	Hold. Percolation testing and well drilling required.
<b>Office of Life Safety</b>	N/A
<b>DPDR Traffic Engineering</b>	Approved
<b>Historic Preservation</b>	N/A

## **RECOMMENDATION**

Staff has no objection to conditional approval of the proposed subdivision. If the Planning Commission conditionally approves the subdivision, the subdivision plat is valid until April 4, 2014 in accordance with the 2009 and 2011 Extension Ordinances. The APFO approval will be valid for a period of three (3) years from the date of Planning Commission approval.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Comply with all agency comments.
2. The well and the septic area must be approved by the Health Department prior to lot recordation.
3. The School Construction Fee shall be paid prior to plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation.

## PLANNING COMMISSION ACTION

### MOTION TO APPROVE

I move that the Planning Commission **APPROVE** S-867, AP 11716 **with conditions** as listed in the staff report, including **APFO** approval, for the proposed one lot major subdivision based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.





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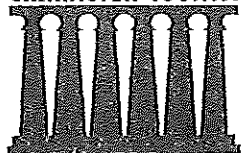
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**CHARACTER COUNTS!**



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**ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING**

**Ashley Acres**

*Preliminary Plat #S-867 AP #11717*

**In General:** The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Franklin & Bessie Gladhill ("Developer"), together with its/their successors or assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the approved Ashley Acres, Section V, Lots 11A & 11B (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors or assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 12.368 +/- acre parcel of land, which is zoned Low Density Residential (R-1), and located northeast of Kemptown Church Road and Gladhill Brothers Road with access off of Kemptown Church Road. This APFO approval will be effective for development of 1 new single family detached home, which is shown on the subdivision plat for the above-referenced Project, which was conditionally approved by the Commission on June 13, 2012.

**Schools:** The Project is projected to generate 1 elementary school student, 1 middle school student and 1 high school student. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the middle and high school levels. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. **The School Construction Fees shall be paid prior to plat recordation** based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level to be mitigated.

**Water and Sewer Improvements:** The Property has a water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan*.